

## II. REMARKS

Claims 1-10 are pending in this application. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 9 and 10 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 1-10 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zoltan (U.S. Patent No. 6,529,917), hereafter “Zoltan,” in view of Hagerman (U.S. Patent Pub. No. 2005/0044354 A1). Applicants respectfully traverse this rejection.

### A. RESPONSE TO EXAMINER’S REMARKS REGARDING 1.131 DECLARATION

Initially, Applicants continue to respectfully traverse the Office’s conclusion that the declaration and the evidence submitted by Applicants fail to prove that the claimed system was conceived prior to August 14, 2000. Rather, Applicants submit that the MPEP does not require proof beyond all doubt, but instead, requires that Applicants establish a *prima facie* case. To this end, Applicants, in their declaration and exhibits, set forth facts that show that Applicants conceived of the invention and reduced it to practice prior to the date of the Zoltan reference, or, in the alternative, exercised diligence from before the date of the Zoltan reference to the

reduction to practice.

This evidentiary showing includes a declaration that contains factual assertions by Applicants that attest to the facts alleged by Applicants. Furthermore, the assertions in Applicants' declaration are supported by the exhibits submitted therewith and referred to therein, for example, Exhibit A, section 2, Cross Reference Function. Specifically, the "LDAP directory that maintains a logical symbolic application name and the physical location of the message routing so that changes to system topology can be more easily implemented," of Exhibit A, section 2.1 LDAP, supports "...a table of keys for synchronizing related data elements between a first and second storage system." Furthermore, the Global Unique Identifier (GUID) as the unique number EID internal key field of Exhibit A, section 2.2. supports the limitation "...a universal identifier corresponding to a data element in the first and second storage system." In addition, the "...key information for party, policy and claim...[that] allows applications to obtain important information about records that belong to other systems within EID," of Exhibit A, section 2, supports the limitations "...a first record identifier corresponding to the data element in the first storage system; and a second record identifier corresponding to the data element stored in the second storage system, wherein the universal identifier, the first record identifier and the second record identifier are used to synchronize the data element between the first and second storage system." Exhibit B further supports these limitations.

Applicants understand that the Office has reservations about accepting the Exhibits as being dispositive, given the modification dates in the Exhibits that are after that of the Office's reference. However, Applicants point out that the references, while they may not provide proof

beyond all doubt, do establish conception dates prior to the August 14, 2000 priority date of the Zoltan reference. Specifically, the original date of the Exhibit B disclosure is August 14, 2000, while the documentation of Exhibit A that references the claimed invention that is described in the disclosure has an original date of July 17, 2000. Although Exhibit A has several update dates, the latest of which is August 11, 2004, one can easily distinguish using the editing marks, the original content, including that pertaining to the claimed invention, from that which was added later. As stated before, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and “notes.” MPEP 715.07. Accordingly, Applicants submit that the declaration and exhibits, taken in their entirety prove a *prima facie* case of both conception and diligence to reduction to practice.

In the alternative, Applicants submit that “...an accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself.” *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989).” MPEP 715.07. For the above stated reasons, the above-referenced 35 U.S.C. §103(a) rejection of claims 1-8 based on the reference of Zoltan is improper and should be withdrawn. Accordingly, Applicants submit that all claims are allowable and respectfully request that the Office withdraw its rejections.

## **B. REJECTION OF CLAIMS 9 AND 10 UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

The Office has asserted that claims 9 and 10 are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 9, Applicants respectfully submit that it is clear that as written describes two storage systems that are designed to store data that is different and not merely be replicas of one another. With regard to claim 10, Applicants respectfully submit that the claim language clearly specifies that the first and second storage systems store data and not the keys or other information that are used to synchronize the tables. To this extent, Applicants assert that the claims are clear as written. Accordingly, Applicants request that the rejection be withdrawn.

## **C. REJECTION OF CLAIMS 1-10 OVER ZOLTAN IN VIEW OF HAGERMAN**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Appellants respectfully submit that the Zoltan and Hagerman references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness. As such, the rejection under 35 U.S.C. §103(a) is defective.

With regard to the 35 U.S.C. §103(a) rejections over Zoltan in view of Hagerman, Applicants assert that the cited references do not teach or suggest each and every feature of the

claimed invention. For example, with respect to independent claim 1, Applicants submit that the cited references fail to teach a table of keys for synchronizing related data elements between a first and second storage system, each key comprising: a universal identifier corresponding to a data element in the first and second storage system; a first record identifier corresponding to the data element in the first storage system; and a second record identifier corresponding to the data element stored in the second storage system. The Office equates the first record identifier of the claimed invention with the identifier column for the master table of Zoltan (Col. 3, lines 43-45) and the second record identifier of the claimed invention with the identifier column included in each secondary table of Zoltan. Col. 5, lines 42-43. The Office admits that the identifier columns of Zoltan are not elements of a single key in a single table as claimed but are instead included in separate tables. Office Action, page 3. Instead, the Office states that it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate different elements in a single key in a table because it provides single tables with multiple identification keys that improves processing performance by reducing time to search multiple tables. Id, lines 12-15.

Applicants assert that the Office's factual assertion is unsubstantiated by the reference itself and, as such, amounts to Official Notice. Applicants further assert that the Office's factual assertion is not properly based upon common knowledge. For example, a combination of the identifier columns of Zoltan into a single key in the master table of Zoltan, as suggested by the Office, is counterintuitive, because the removal of the key column from the satellite table of Zoltan would leave the satellite table with nothing to match it with the master. To this extent,

there is no teaching or suggestion in the references themselves or in the art for combining the Office's factual assertion with Zoltan. Hagerman does not cure this deficiency. Accordingly, Applicants respectfully request that the Office support the finding with references that show these features or withdraw the rejection.

With further regard to the 35 U.S.C. §103(a) rejections over Zoltan in view of Hagerman, Applicants assert that there is no motivation or suggestion for combining Zoltan and Hagerman does not teach or suggest each and every feature of the claimed invention. Specifically, the Zoltan system uses the key columns of its master and satellite tables to provide replication of data between a master table and a satellite table. In contrast, the key values of Hagerman are used, not in data replication, but rather to provide system security by resisting spoofing system attacks. To this extent, the keys of Hagerman are in areas of art that are non-analogous to the elements of the key tables of Zoltan. Furthermore, as illustrated above, the keys of Hagerman are not used to solve the same problem as the members of the tables of Zoltan, but rather, provide completely different functionality. As such, the office has failed to prove a *prima facie* case of obviousness. Accordingly, Applicants respectfully request that the rejection be withdrawn.

With regard to claim 10, Applicants respectfully submit that the cited references do not teach or suggest that the first and second storage system do not separately maintain information for synchronizing the first and second storages system with each other. In support of its contention to the contrary, the Office cites only a figure of Zoltan that "...illustrates a master table that is remotely communicably coupled to a satellite table through a network." Fig. 4; col. 7, lines 49-58. However, this figure and the accompanying text of Zoltan does not teach or

suggest that neither its master table nor its satellite table maintains information for synchronizing the tables. Rather, both the master table and the replicated tables of Zoltan include information that is for synchronizing the tables, namely, the identifier columns of each. Col. 2, lines 42-45. In contrast, the claimed invention includes "...wherein the first and second storage system do not separately maintain information for synchronizing the first and second storage system with each other." Claim 10. As such, in contrast to the ambiguous figure of Zoltan and its teachings to the contrary, the first and second storages systems of the claimed invention do not separately maintain information for synchronizing the first and second storage systems with each other. Hagerman does not cure this deficiency. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claim listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejections.

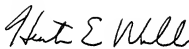
### **III. CONCLUSION**

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in

rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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